

1
2
3
4
5
6
7
8
9
10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
12

13 JAMES OSKAR HILDINGER,

14 Plaintiff,

15 v.
16

17
18 CAROLYN W. COLVIN, Acting
19 Commissioner of the Social Security
20 Administration,

21 Defendant.

CASE NO. 13-CV-1370 W (WVG)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
[DOC. 20], (2) GRANTING
PLAINTIFF'S SUMMARY-
JUDGMENT MOTION [DOC. 14],
(3) DENYING DEFENDANT'S
SUMMARY-JUDGMENT MOTION
[DOC. 17], AND (4) REMANDING
CASE**

22 On June 12, 2013, Plaintiff James Oskar Hildinger filed this lawsuit seeking
23 judicial review of the Social Security Commissioner's decision denying his claim for
24 disability insurance benefits. The matter was referred to the Honorable William V.
25 Gallo, United States Magistrate Judge, for a report and recommendation under 28
26 U.S.C. § 636(b)(1)(B). Thereafter, the parties filed cross-motions for summary
27 judgment.
28

1 On May 7, 2014, Judge Gallo issued a Report and Recommendation (“Report”),
 2 recommending that the Court grant Plaintiff’s summary-judgment motion, deny
 3 Defendant’s summary-judgment motion, and remand the case to the Administrative
 4 Law Judge for further proceedings consistent with the Report. (*See Report* [Doc. 20],
 5 29:2–5.) The Report also ordered any objections filed by May 21, 2014, and any reply
 6 filed by June 4, 2014. (*Id.* at 29:8–14.) To date, no objection has been filed, nor has
 7 there been a request for additional time in which to file an objection.

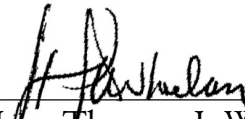
8 A district court’s duties concerning a magistrate judge’s report and
 9 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of
 10 the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections
 11 are filed, the district court is not required to review the magistrate judge’s report and
 12 recommendation. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
 13 2003) (holding that 28 U.S.C. 636(b)(1)(c) “makes it clear that the district judge must
 14 review the magistrate judge’s findings and recommendations de novo *if objection is made*,
 15 but not otherwise”) (emphasis in original); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
 16 1226 (D. Arizona 2003) (concluding that where no objections were filed, the District
 17 Court had no obligation to review the magistrate judge’s Report). This rule of law is
 18 well established within the Ninth Circuit and this district. *See Wang v. Masaitis*, 416
 19 F.3d 992, 1000 n. 13 (9th Cir. 2005) (“Of course, de novo review of a R & R is *only*
 20 required when an objection is made to the R & R.”) (emphasis added) (citing *Renya-*
 21 *Tapia*, 328 F.3d 1121); *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005)
 22 (Lorenz, J.) (adopted Report without review because neither party filed objections to
 23 the Report despite the opportunity to do so, “accordingly, the Court will adopt the
 24 Report and Recommendation in its entirety.”); *see also Nichols v. Logan*, 355 F. Supp.
 25 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

26 The Court, therefore, accepts Judge Gallo’s recommendation, and **ADOPTS** the
 27 Report [Doc. 20] in its entirety. For the reasons stated in the Report, which is
 28 incorporated herein by reference, the Court **GRANTS** Plaintiff’s summary-judgment

1 motion [Doc. 14], **DENIES** Defendant's summary-judgment motion [Doc. 17], and
2 **REMANDS** the case to the Social Security Administration for further proceedings
3 consistent with the Report. Upon remand, the district court clerk shall close the
4 district court case file.

5 **IT IS SO ORDERED.**

6 DATED: July 1, 2014

7
8 
9 Hon. Thomas J. Whelan
United States District Judge